

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

WERTHEIMER H., INC.; WERTHEIMER
A., INC.; HENRY WERTHEIMER, III;
JANE WERTHEIMER; PAUL
WERTHEIMER; and JANET
WERTHEIMER,

Plaintiffs,

vs.

RIDLEY USA, INC., a Minnesota
Corporation, d/b/a WESTFEEDS; and
JOHN DOES I-IV,

Defendants.

CV-18-83-GF-BMM

ORDER ON MOTION IN LIMINE

INTRODUCTION

Plaintiffs Wertheimer H. Inc., Wertheimer A., Inc., Henry Wertheimer, III, Jane Wertheimer, Paul Wertheimer, and Janet Wertheimer (collectively the “Wertheimers”), seek to prevent at trial any evidence or arguments that their damages should be diminished because they have been good stewards of their finances. (Doc. 23.) Defendants Ridley USA, Inc., a Minnesota Corporation, d/b/a Westfeeds (“Westfeeds”) oppose the motion. (Doc. 35.)

DISCUSSION

A court should grant a motion in limine to exclude evidence only if the evidence would be “inadmissible on all potential grounds.” *McDonald v. Townsquare Media, LLC*, 2014 WL 12600456, at *1 (D. Mont. 2014). The Wertheimers argue that their history of not taking out loans, their strong financial position, and strong cash position should not be used against them at trial. (Doc. 24 at 6-7.) Westfeeds counters that the Wertheimers’ financial condition proves relevant on a number of grounds—like the Wertheimers’ claim for damages—that are central to this litigation. (Doc. 35 at 2.)

The Court generally agrees. Claims of lost profits or lost borrowing capacity, for example, will implicate the Wertheimers’ financial situation and those of the corporations. These issues will be in play at trial. That is not to say, however, that Westfeeds may discuss the Wertheimers’ financial situation without limits. For example, the Court will not permit gratuitous references to the wealth of the Wertheimers or the value of the corporations. Any evidence relating to these issues will be allowed only in the context of analyzing issues related to damages claimed by the Wertheimers.

ORDER

ACCORDINGLY, it is ordered that Wertheimers' motion in limine is **DENIED, IN PART**. Westfeeds may only discuss the Wertheimers' financial situation as it relates to issues regarding damages claimed by the Wertheimers.

DATED this 27th day of February, 2019.



Brian Morris
United States District Court Judge